

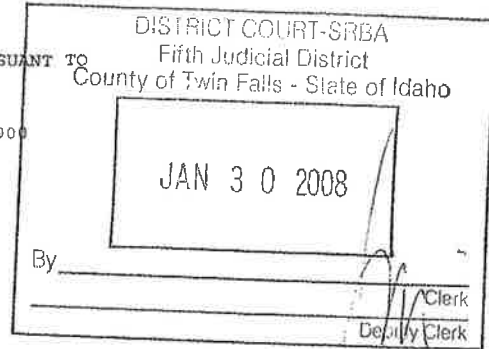
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 22-12900



NAME AND ADDRESS: LAYNE HARRIS
PO BOX 63
NEWDALE, ID 83436

SOURCE: GROUND WATER

QUANTITY: 0.64 CFS
259.00 AFY

Right Nos. 22-2200 and 22-12900 are limited to a total combined diversion rate of 2.7 cfs and to a total combined annual diversion volume of 854 AF.

PRIORITY DATE: 05/01/1965

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION: T06N R41E S03 SWSENE Within Madison County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	0.64 CFS 259.00 AFY

PLACE OF USE:	Irrigation	Within Madison County
	T06N R41E S03 LOT 1 (NENE) 28.0 SWNE 24.0 NESE 38.0 SWSE 37.0 244.0 Acres Total	LOT 2 (NWNE) 2.0 SENE 39.0 NWSE 39.0 SESE 37.0

This right is limited to the irrigation of 74 acres within the place of use described above in a single irrigation season. The rights listed below are limited to the irrigation of a combined total of 244 acres in a single irrigation season. Combined Right Nos.: 22-2200 and 22-12900.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right is based upon an enlargement of Right No. 22-2200 pursuant to Section 42-1426, Idaho Code.

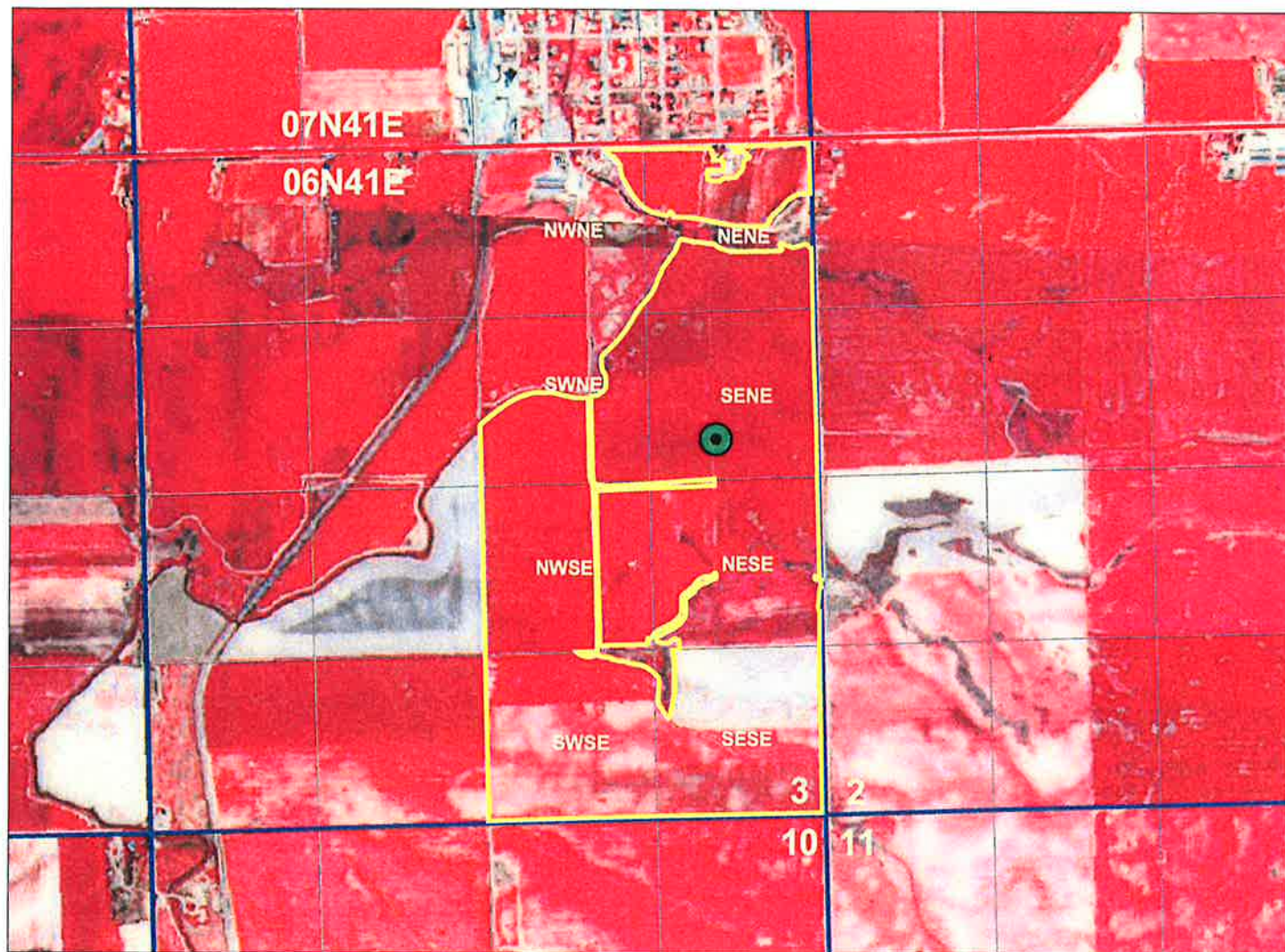
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

Department of Water Resources

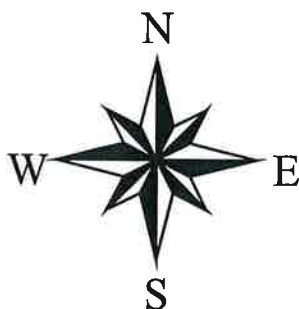
Eastern Region



Claim No.: 22-2200 & 22-12900



- Point of Diversion
- Place of Use
- Township/Range
- Sections
- QQ



GIS Place of Use Illustration
1987/88 NAPP Photography
Prepared by: Kristin Moore
Date Prepared: December 2005

SCANNED
AUG 20 2007



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

October 25, 2007

LAYNE HARRIS
680 MAIN ST
PO BOX 63
NEWDALE ID 83436

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

RE: Notice of Change of Water Right Ownership (NCO) for 22-12900 and Notice of Completed Administrative Proceeding (NCAP)

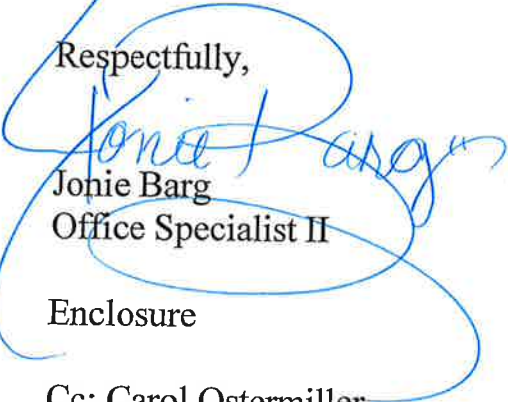
Dear Sir/Madam:

On March 7, 2007 the Idaho Department of Water Resources (IDWR) received an NCO changing the right holder for the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,


Jonie Barg
Office Specialist II

Enclosure

Cc: Carol Ostermiller

RECORDED
OCT 29 2007

STATE OF IDAHO

IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	22-12900				

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water rights(s) or claims(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use your water rights(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county.)
OR
 If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant Carol Ostermiller
8881 E. Hwy. 33, PO Box 142, Newdale, ID 83436
4. New Owner/Claimant(s) Layne Harris
 Name connector (check one): ☐ and ☐ or, ☐ and/or
 New Mailing Address 680 Main St., PO Box 63
 City, State and ZIP Code Newdale, ID 83436
 New Telephone Number 208-458-4936
5. Date you acquired the property _____

ATTACHMENT T 73415
1 OF 4

SCANNED

OCT 29 2007

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
TOTAL	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
TOTAL	_____	_____

7. Signature of New Owner(s) Or Claimant(s)
(include title if applicable)

Robert Lynn Harris

For Snake River Basin Adjudication Claims: Please attached a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee 25-
 Receipted by se Date 3/7/07 Receipt No. EO32670
 Processed by _____ Date _____ WR _____ Date _____

T 73415
 ATTACHMENT 2 OF 4 SCANNED

OCT 29 2007

**QUITCLAIM DEED
FOR
WATER RIGHTS**

THIS INDENTURE is made this 15th day of November, 2006, between Carol Ostermiller, referred to herein as the "GRANTOR" and Layne Harris, whose mailing address is 680 Main St., Newdale, ID 83436, the referred to as the "GRANTEE",

WITNESSETH, that the GRANTOR, for an in consideration of the sum of Ten and No/100 Dollars (\$10.00) lawful money of the United States of America and other good and valuable consideration to GRANTOR, in hand paid by the GRANTEE, the receipt whereof is hereby acknowledged, does by these presents remise, release and forever QUITCLAIM unto the GRANTEE, and to GRANTEE's successors and assigns forever, all right, title and interest now owned or hereafter acquired by the Grantor in all the following described water rights or portions thereof in the County of Madison, State of Idaho, to-wit:

Water Right No.22-12900

TOGETHER, with the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and any reversions, remainders, or rents, issues and profits therefrom.

TO HAVE AND TO HOLD the said water rights unto the GRANTEE, and to GRANTEE's successors and assigns forever.

In construing this Quitclaim Deed and where the context so requires, the singular includes the plural.

Instrument # 332835

REXBURG, MADISON, IDAHO

2006-11-22 10:21:00 No. of Pages 2

Recorded for : HOLDEN KIDWELL HAHN & CRAPO

MARILYN R. RASMUSSEN

Fee: 6.00

Ex-Officio Recorder Deputy

T 73415
ATTACHMENT 3 OF 4

SCANNED

OCT 29 2007

IN WITNESS WHEREOF, the GRANTOR has executed the within instrument the day and year first above written.

Carol Ostermiller
Carol Ostermiller

STATE OF IDAHO)
)ss.
County of Bonneville)

On the 15th day of November, 2006, before me, the undersigned, a notary public in and for said State, personally appeared Carol Ostermiller known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Susan Lott
Notary Public for Idaho
Residing at: Newdale, Fremont Co. Idaho
My Commission Expires: 6/02/2012

G:\WPDATA\RLH\10136 Harris, Layne\QCD.Ostermiller.wpd.cdv

Form 222
1-87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant Layne Harris Phone (208) 523-0620
Post Office address c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C., P.O. Box 50130, Idaho Falls, Idaho 83405

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes: Change point of diversion to conform with current irrigation system setup.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>22 Rpt</u> <u>21-12900</u>	<u>05/01/1965</u>	<u>259 AFA</u>	<u>Irrigation</u>	<u>04/01</u> to <u>10/31</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 0.64 cubic feet per second and/or 259 acre-feet per annum.
3. Source of water Ground water
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	SE	NE	10	6N	41E	Madison	Same point of diversion as Water Right 22-7397

5. Lands irrigated or place of use: (Permissible place of use for all water rights)

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	41E	3															38	<u>37 1/2</u>	<u>75 1/2 Rpt</u>
~~6N~~	~~41E~~	~~10~~	~~39~~	~~38~~	~~40~~	~~37~~	<u>Rpt</u>											<u>3 1/2</u>	<u>154 Rpt</u>

Total Acres 229 75 Rpt

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OCT 29 2007

6. General Information:

- a. Description of diversion system Pump and mainline.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes _____ No X. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer:
None
- d. Remarks:
Water Right No. 22-12900 is an enlargement right, which has been deeded by Carol Ostermiller to Layne Harris in order for Layne to irrigate the Dyle Peterson property (the SWSE and SESE of 6N, 41E, Sec. 3). Mr. Harris has been irrigating the Peterson property with the pump and mainline at the point of diversion listed for Water Right No. 22-7397. The system has been in place for over 10 years, and this transfer will make the water rights consistent with the current irrigation system. Attached is a recorded quitclaim deed from Ms. Ostermiller to Mr. Harris. The change in point of diversion is only approximately one-half mile from the listed point of diversion for 22-12900.

ACTION OF THE DIRECTOR DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____ and said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 2002.

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OCT 29 2007

Page 3 of 6

Close

73415

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

03/06/2007

WATER RIGHT NO. 22-12900

Owner Type	Name and Address
Current Owner	CAROL OSTERMILLER 8881 E HWY 33 PO BOX 142 NEWDALE, ID 83436 (208)458-4135
Original Owner	JUNIOR OSTERMILLER E HWY 33 NEWDALE, ID 83436 (208)458-4135

Priority Date: 05/01/1965

Basis: Beneficial Use

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	10/31	0.64 CFS	259 AFA
Total Diversion			0.64 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWSENE	Sec. 03	Township 06N	Range 41E	MADISON County
--------------	--------	---------	--------------	-----------	----------------

IRRIGATION Use:

Acre Limit: 74

<http://www.idwr.state.id.us/apps/ExtSearch/RightReportAJ.asp?BasinNumber=22&SequenceNumber=129>

3/6/2007

73415

OCT 29 2007

page 4 of 6

Place(s) of use:

73415

Place of Use Legal Description: IRRIGATION MADISON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06N	41E	3	1	NENE	28	2	NWNE	2		SWNE	24		SENE	39
				NESE	38		NWSE	38		SWSE	38		SESE	37

Total Acres: 244

Conditions of Approval:

1. C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. E60	Right Nos. 22-2200 and 22-12900 are limited to a total combined diversion rate of 2.7 cfs and to a total combined annual diversion volume of 854 AF.
3. K06	This right is limited to the irrigation of 74 acres within the place of use described above in a single irrigation season.
4. E56	The rights listed below are limited to the irrigation of a combined total of 244 acres in a single irrigation season. Combined Right Nos.: 22-2200 and 22-12900.
5. F05	Right No. 22-2200 is also diverted through point of diversion described above.
6. K09	This right is for an enlargement of 74 acres within the place of use described for this right.
7. K02	This right is based upon an enlargement of Right No. 22-2200 pursuant to Section 42-1426, Idaho Code.
8. C11	This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

Dates:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

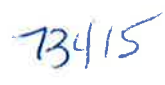
Mitigation Plan: False

Close

73415

OCT 29 2007

page 5 of 6



 Harris_Property
 PLS-Section
 PODRec
 Peterson_Property
 PLS-QQ
 POUREc

73415

SCANNED

OCT 29 2007

B. CHANGES IN NATURE OF USE

1. New Nature of Use Amount Hours/days/year Period of Use
 (cfs/ac-ft)
None _____ to _____
 _____ to _____

2. Quantity and quality of return flows and location of discharge:

None. The change in point of diversion is less than one-half mile from the listed point of diversion.

3. Describe effects on other water uses resulting from the proposed change:

No effects.

I hereby asset that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

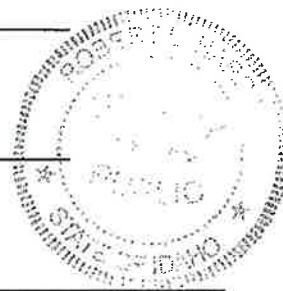
I understand that any willful misrepresentations made in this application may result in voiding its approval.

[Signature]
 (Signature of Applicant)

Subscribed and sworn to before me this 7th day of March, 2008.

[Signature]
 Notary Public

My Commission Expires 11/18/2010

**FOR DEPARTMENT USE ONLY**

Transfer contains 6 pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee 330-

Received by se Date 3/7/07 E032670

Published in Rexburg Standard Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ by _____

Copy of transfer sent to lien holder _____

CERTIFICATE OF MAILING

I certify that on Oct 26, 2007, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:
Carol Ostermiller
8881 E Hwy 33
PO Box 142
Newdale ID 83436

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:
Layne Harris
680 Main St
Po Box 63
Newdale ID 83436

4. One copy to:

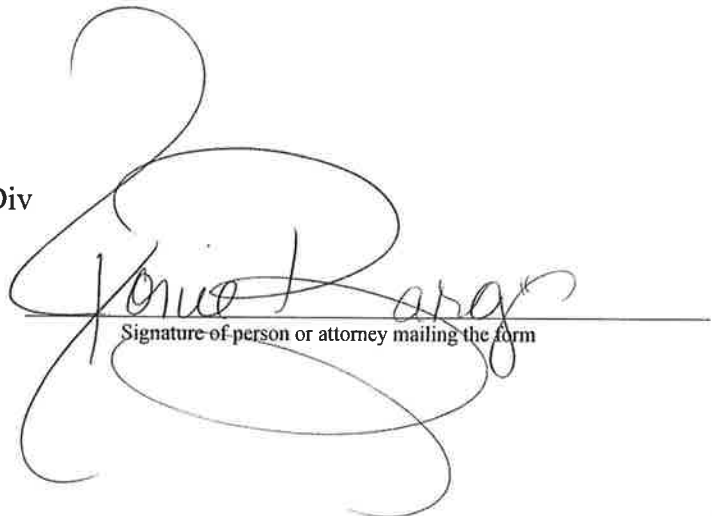
Each party in the subcase, or attorney of record
Robert Harris
Holden, Kidwell, Hahn & Crapo
PO Box 50130
Idaho Falls ID 83405

5. One copy each to:

Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449

6. One Copy to:

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724


Signature of person or attorney mailing the form

10/25/2007

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 22-12900
NAME AND ADDRESS: LAYNE HARRIS
PO BOX 63
NEWDALE ID 83436

SOURCE: GROUND WATER
QUANTITY: 0.640 CFS
259.00 AFY

TRIBUTARY:

Right Nos. 22-2200 and 22-12900 are limited to a total combined diversion rate of 2.7 cfs and to a total combined annual diversion volume of 854 AF.

PRIORITY DATE: 05/01/1965

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF
DIVERSION: T06N R41E S3 SWSENE Within MADISON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.640 CFS 259.00 AFY

PLACE OF USE: IRRIGATION in MADISON County

T06N R41E S03 Lot 1 NENE	28.00	T06N R41E S03 Lot 2 NWNE	2.00
T06N R41E S03 SWNE	24.00	T06N R41E S03 SENE	39.00
T06N R41E S03 NESE	38.00	T06N R41E S03 NWSE	39.00
T06N R41E S03 SWSE	37.00	T06N R41E S03 SESE	37.00

244 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 244 acres in a single irrigation season. Combined Right Nos.: 22-2200 and 22-12900.

This right is limited to the irrigation of 74 acres within the place of use described above in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right is based upon an enlargement of Right No. 22-2200 pursuant to Section 42-1426, Idaho Code.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

SCANNED
OCT 29 2007

This right is for an enlargement of 74 acres within the place of use described for this right.

Right No. 22-2200 is also diverted through point of diversion described above.

SCANNED

OCT 29 2007

Robert L. Harris, Esq. (ISB # 7018)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P. O. Box 50130
1000 Riverwalk Drive Avenue, Suite 200
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

RECEIVED
JUN 10 2005
Department of Water Resources
Eastern Region

Attorney for Claimant

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case no. 39576

Water Right Claim: 22-12900

**NOTICE OF WITHDRAWAL OF
MOTION TO FILE AN AMENDED
NOTICE OF CLAIM**

Claimant Dyle Peterson, by and through his counsel of record, Robert L. Harris of HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C., hereby withdraws his Motion to File Amended Notice of Claim in the above-captioned matter. Because the Director's Report for Basin 22 has not yet been forwarded to the court, Mr. Peterson will amend his Notice of Claim administratively rather than seeking to amend through the court.

SCANNED

JUN 15 2005

PROFILED

COPY

Al desk

DATED this 9th day of June, 2005.

Robert L. Harris

Robert L. Harris,
Attorney for the Claimant

G:\WPDATA\RLH\12728 Peterson, Dyle\Motion to Withdraw.wpd

PROFILED

SCANNED
JUN 15 2005

CERTIFICATE OF MAILING

I certify that on June 9, 2005, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

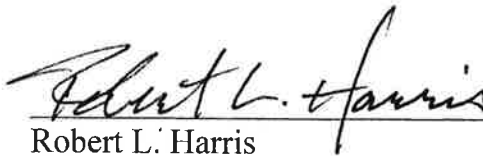
2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-6105

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Robert L. Harris

PROFILED

SCANNED
JUN 15 2005

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 73415

This is to certify that: LAYNE HARRIS
 PO BOX 63
 NEWDALE ID 83436
 (208)458-4936

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
22-12900	WR/Decreed	05/01/1965	0.64 cfs	259 af	74.0	244.0	GROUND WATER

Associated Water Rights Also Included in Transfer Approval (Update Conditions)

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Total</u>	<u>Source</u>
22-7397	AJC/License	05/20/1982	3.16 cfs	553 af		158.0	GROUND WATER
22-2200	AJC/License	05/14/1961	2.7 cfs	595 af	170.0	244.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
22-12900	NO	YES	NO	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
22-12900	22-12900	0.64 cfs	259 af	N/A	74.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		0.64 cfs	259 af	N/A	74.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 13 day of May, 2009

for 
 Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 22-12900

WATER RIGHT NO. 22-12900
As Modified by Transfer No. 73415

In accordance with the approval of Transfer No. 73415, Water Right No. 22-12900 is now described as follows.

Right Holder: LAYNE HARRIS
 PO BOX 63
 NEWDALE ID 83436

Priority Date: May 01, 1965

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	to 10/31	0.64 CFS	259.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER SESENE Sec. 10 Twp 06N Rge 41E MADISON County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE					
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals	
06N	41E	3																37.0	37.0	74.0

Total Acres: 74

CONDITIONS OF APPROVAL

1. This right is for an enlargement of 74 acres within the place of use described for this right.
2. Rights 22-7397 and 22-12900 when combined shall not exceed a total diversion rate of 3.16 cfs, and the irrigation of 232 acres.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. This right is based upon an enlargement of Right No. 22-7397 pursuant to Section 42-1426, Idaho Code.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

WATER RIGHT NO. 22-12900
As Modified by Transfer No. 73415

CONDITIONS OF APPROVAL

8. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
9. Right 22-7397 is also diverted through the point(s) of diversion described above.
10. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 13 day of May, 2009

Ernest Carlson
for Chief, Water Allocation Bureau

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

A. Subcase 22-12900

Case No. 35976

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Layne Harris

Address: c/o Holden, Kidwell, Hahn & Crapo, P.L.L.C.

P.O. Box 50130

Idaho Falls, ID 83405

Daytime Phone: (208) 523-0620

Name & Address of Attorney, if any:

Robert L. Harris

Holden, Kidwell, Hahn & Crapo, P.L.L.C.

P.O. Box 50130

Idaho Falls, ID 83405

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Layne Harris

Address: P.O. Box 63

Newdale, ID 83420

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Points of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be modified to only include a total of 74 acres within the SW1/4SE1/4 and the SE1/4SE1/4 of T. 6N, R 41E, Sec. 3, instead of the 75 acres currently listed.
10. **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): Water right no. 22-12900 is an enlargement right attached to the parent water right numbered 22-2200. Water Right No. 22-12900 was originally developed by Junior Ostermiller to irrigate property leased by him in the SE1/4SE1/4 and the SW1/4SE1/4 of T. 6N, R. 41E, Sec. 3. Along with Water Right No. 22-2200, the place of use

designation recommended by IDWR totaled 244 acres, which appeared to be entirely correct since the original licensed acres for Water Right No. 22-2200 was 170 acres. With the 170 acres from 22-2200, and the 74 enlargement acres, a place of use of 244 acres for both rights ($170 + 74 = 244$) seemed entirely accurate.

The objector, Layne Harris, recently purchased the 22-12900 because he is now the lessee of the SE1/4SE1/4 and the SW1/4SE1/4 of T. 6N, R. 41E, Sec. 3, the same acres developed by Mr. Ostermiller which made it necessary to file the enlargement claim of 22-12900. The purchase of the enlargement right was necessary because Mr. Harris now irrigates the above property from the same well from which Water Right No. 22-7397 is diverted from. In order to bring the water rights in conformity with the current irrigation system, Mr. Harris filed a transfer application to change the point of diversion of 22-12900, a change that would move the point of diversion approximately 1 mile to the south of the current point of diversion.

In the process of reviewing the transfer application, IDWR discovered that the place of use shapefile designation for both 22-12900 and 22-2200 showed 169 acres for the land originally irrigated by 22-2200, and 75 acres for the land irrigated under the 22-12900 enlargement. This appears to be an error because 22-12900 states specifically in its conditions that it is limited to an enlargement of 74 acres, but the place of use designation in the water right recommendation has a total of 75 acres in the two quarter-quarter sections listed above on the water right recommendation. Thus, with the transfer of 74 acres, the strange result would be a place of use for the 22-2200 right of 169 acres (one acre less than the 170 for which it was licensed), and on the leased property, there would be one acre of the 22-2200 right appurtenant to it with the same point of diversion as 22-2200 (the original parent right), and 74 acres with the same point of diversion as 22-7397 (the right to which Mr. Harris is attempting to attached 22-12900).

It seems to Mr. Harris that there was an error in rounding, which needs to be sorted out so that there is a place of use of 170 acres for 22-2200, and a place of use of 74 acres (not 75 acres) for the SE1/4SE1/4 and the SW1/4SE1/4 of T. 6N, R. 41E, Sec. 3. A map is attached showing Mr. Harris' property and the leased property to which 22-12900 is appurtenant. Thereafter, the transfer could proceed forward.

VERIFICATION (Must be Completed)

State of Idaho)
)ss.
County of Bonneville)

Robert L. Harris, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I.C. §§42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection

Robert L. Harris

Attorney signing in representative capacity

Subscribed and sworn to before me on: March 15, 2007



Cheri Vandermeulen
Notary Public for Idaho
Residing at: Idaho Falls
My Commission Expires: July 7, 2009

G.

CERTIFICATE OF MAILING

I hereby certify that on March 15, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

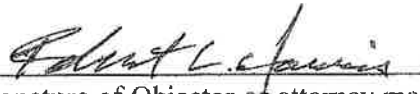
Name: Layne Harris
Address: P.O. Box 63
Newdale, ID 83436

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

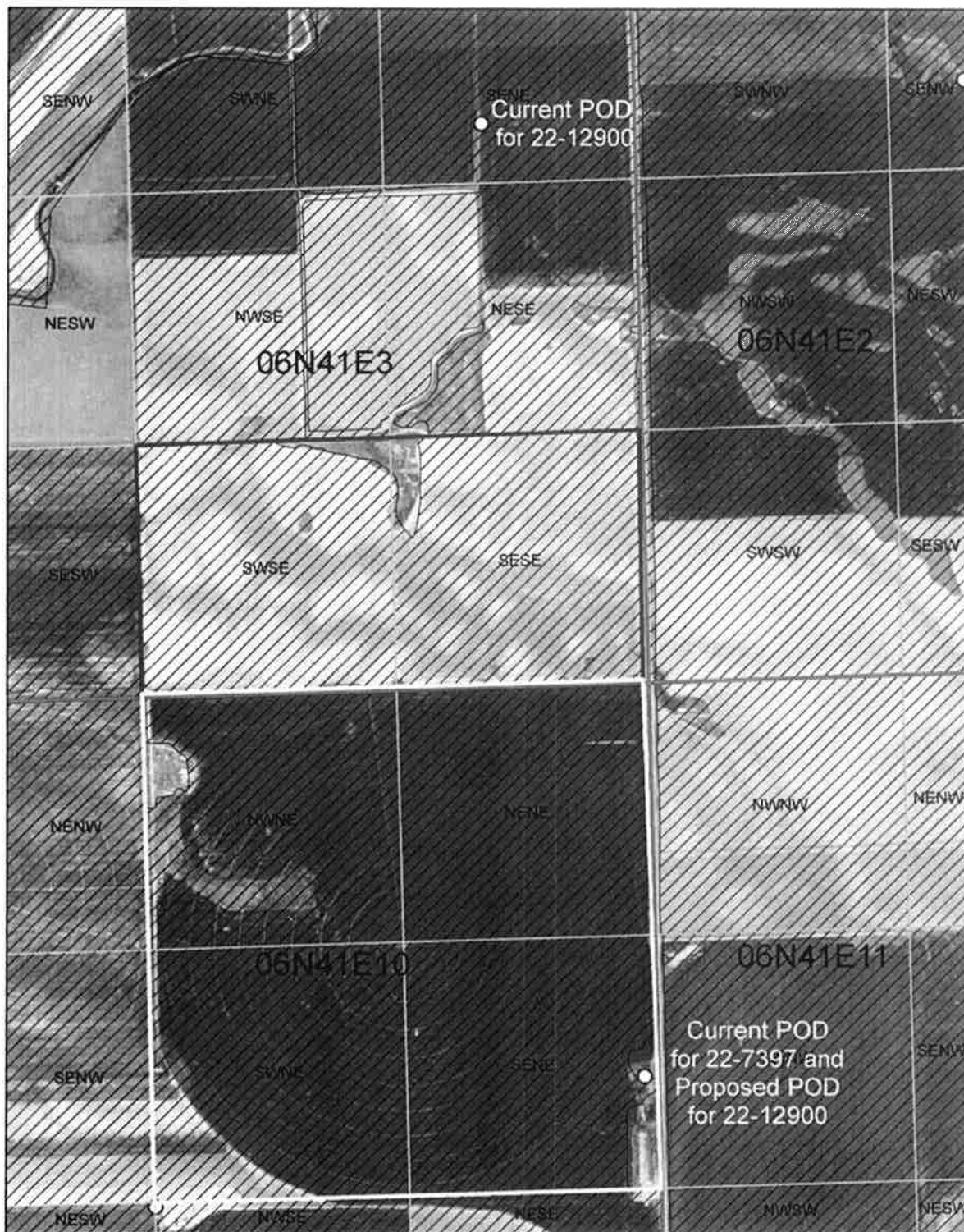
United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Signature of Objector or attorney mailing on
Objector's behalf

G:\WPDATA\CA\113540\SRBA Objection22-12900.wpd

WATER RIGHT 22-12900 TRANSFER

0 0.125 0.25 0.5 Miles



Legend

Harris_Property		PLS-Section		PODRec
Leased_Property		PLS-QQ		POURec

Claim no. 22-12900

Claimant Contact Log

Date 10-28-2005 Remarks Agent initials

HeJ

I met with attorney Robt. Harris of Holden, Redwell, Hahn + Crapo (phone 523-0620). He represents Carol Ostermiller + is the son of Layne Harris who farms all the ground in A22-2200 + A22-12900.

The P.O.U. in 22-12900 is owned by Dyle Peterson who is quite elderly. A better family contact is Gwen Hoffman (daughter - phone 624-1343 H or 359-6524-work) Also son Ben Peterson (cell phone 313-7345 - Home 624-7176)

Enlargement claim probably needs names of all the owners of well in Sec 3 as Dyle never owned any of P.O.U. under 22-2200

SCANNED

AUG 20 2007

Claim no. A2210904

Claimant Contact Log

Date _____

Remarks

Agent initials

12-28-05

Although Dyle owns the property on which this right was filed, he cannot be the owner of the WR since he does not own the license from which the water comes. Junior Ostermiller, Rayel Howard, and Reese Gaultrey own the license and well at which this right is an enlargement. Therefore, keeping Ostermiller as current owner, but making the other changes requested, such as the priority date and point of diversion in the recommendation. This is an enlargement of 22-2260, not 22-2180.

Junior Ostermiller passed away. His wife, Carol Ostermiller is current owner.

~~SCANNED~~

AUG 20 2007

City to Newdale

T7N, R41E
T6N, R41E

34 35
32

GODFREY GLEN REESE ETUX

HOWARD BOYDE
HOWARD BOYDE

Schwendiman
Farms owns
now

OSTERMILLER CAROL

(check
ownership)
422-2180

(check ownership)

OSTERMILLER CAROL ETAL
OSTERMILLER JUNIOR TESTAM TR

LA LLC

Entirement
~~expansion~~ for

Site 3 22-12900

(4th, Bob Harris is son of)
Layne

Layne Harris owns
all above property
& owns the
ground
72-7997

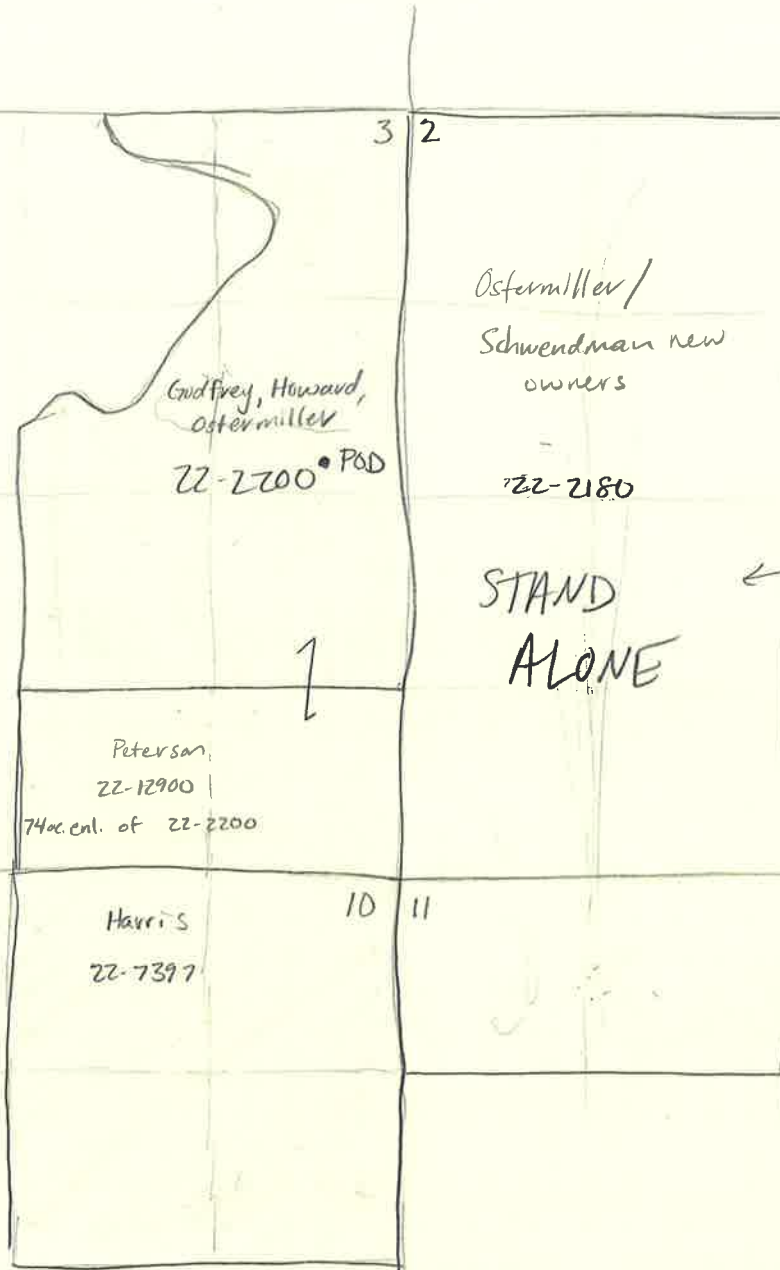
(check ownership)

SCHWENDIMAN FARMS
OSTERMILLER CAROL

Well water to
Sump Pond &
then pumped back
to south
to irrigate
these fields

SCANNED
AUG 29 2007

22-2180, 22-2200, 22-12900

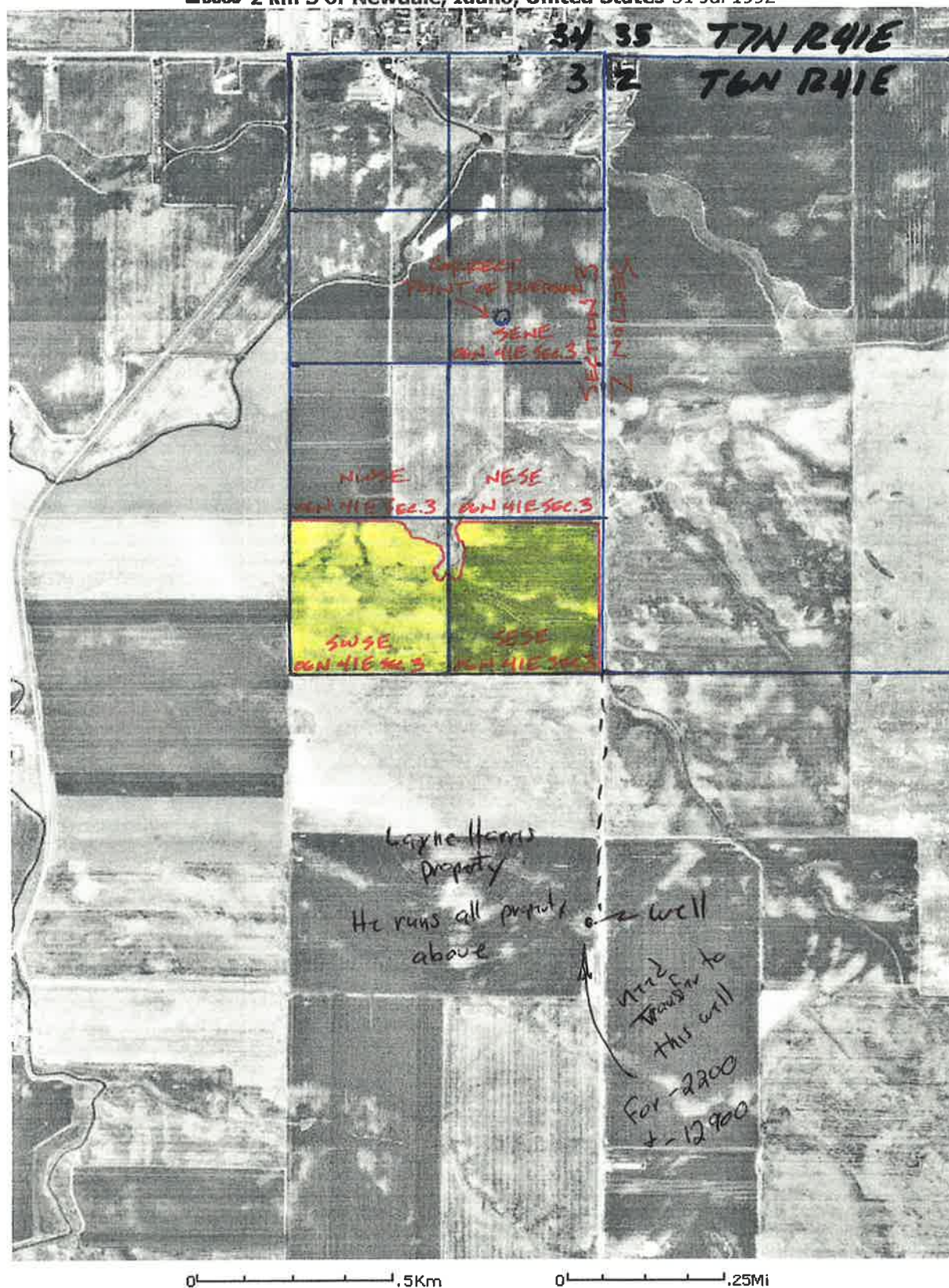


← ? overlapped by
Schwendman claims/rec.
22-7210 and
22-10129 (6772.3 ac.)
↓ combined use w/
22-7271/7313A/7313B

Ask Skip about ownership and system.
He has 22-7397.

↑
Skip did it. Will be here
soon.

USGS 2 km S of Newdale, Idaho, United States 31 Jul 1992



IDAHO FARM LEASE



This lease is entered into this 6th day of February 1965, between D. B. Peterson and Ila Peterson, Husband and Wife, hereinafter designated landlord, and Rexford S. Howard and Junior Ostermiller

hereinafter designated tenant.

Witnesseth: That landlord, for and in consideration of the covenants and agreements hereafter mentioned to be kept and performed by tenant, has by these presents, demised and leased to tenant the following described land, to-wit:

South half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$)
Section 3, Township 6 North, Range 41 East,
Boise Meridian.

in the county of Madison, State of Idaho, and containing eighty (80) acres, more or less, together with all buildings and improvements thereon and all rights thereto appertaining except as otherwise herein provided, to have and to hold the same to tenant, from February 6, 1965, to December 31, 1969. And the tenant in consideration of the leasing of the premises as above set forth, covenants and agrees with landlord to pay, as rent for the same, the shares of crops, cash, or quantities of crops as set forth below:

Cash rent on or before the first day of April of each year commencing April 1, 1965, on the following basis:
\$20.00 per acre for grain crops of any kind.
\$25.00 per acre for potatoes.
No rent on non-tillable land.

After the crop year of 1965 not more than half of the acreage that is tillable shall be planted to potatoes.

Tenant is specifically authorized to sprinkle irrigate said premises.

And tenant further agrees with landlord that at the expiration of the term of this lease he will yield up the possession to landlord without further demand or notice, and in as good order and condition as when the same was entered upon by tenant, loss by fire or inevitable accident and ordinary wear excepted.

The tenant further agrees not to allow or suffer any waste on said premises, or lease, or under-let, or permit any person or persons to occupy or improve same or make or suffer to be made any alteration therein, except with the approval of the landlord hereto in writing having first been obtained.

And it is further expressly understood and agreed between the parties hereto as follows:

1. The tenant covenants to farm said premises to the satisfaction of landlord, and to raise the greatest amount of grain and other crops thereon the nature of the soil and season will permit, and further to break up and improve as much of the waste land as may be in condition to plow.
2. Tenant shall haul out and distribute upon the poorest soil on said premises all the manure and compost suitable to be used and further not to burn any straw or stubble on said premises.
3. The tenant shall preserve and keep the fruit and ornamental trees, vines and shrubbery that are now on or may be planted upon the premises from injury by plowing or from cattle, or any other stock, and further to keep said premises free from brush and burrs, and shall also keep all necessary ditches and drains plowed and cleaned out during the continuance of this lease.
4. Tenant shall keep said premises including the hedges and fences in proper repair, provided that the landlord shall furnish such material that he or his agent may consider necessary to repair said premises within a reasonable time after being notified, and the tenant shall haul said material to said premises without charge.
5. Tenant covenants not to remove any of the crops raised on said premises during the term of said lease until the rent therein specified shall be fully paid, or sell the same or any part thereof. And if any grain or other crops raised on said premises during said term shall be removed or attempted to be removed by any person or persons before the payment of said rent; or if the tenant shall sell, or attempt to sell, said grain or other crops of produce, or any part thereof shall be claimed or attached or levied upon by execution or claimed by any other person or persons upon any pretense whatever, before said rent shall be fully paid, then upon the happening of any such contingencies, said rent shall immediately become due and payable, and landlord or his legal representatives shall have the right to enter into the said premises and take possession of said grain or other crops, or whatever the same may be and remove the same and sell the same or any part thereof; or if the same be not sufficiently matured for harvesting or gathering to cultivate the same and to preserve and protect the same until it shall be fit, and then to harvest or gather or sell the same or any part thereof, at private or public sale, and to apply the proceeds thereof to the payment of the expenses and cost of carrying out the provisions of this lease and the payment of said rent hereby reserved.

AUG 20 2007

6. Landlord reserves the right to plow the stubble ground when tenant may have harvested the grain grown thereon and further that landlord or his legal representatives may enter upon said premises for the purpose of viewing or of seeding and making repairs.
7. If tenant shall fail to cultivate said premises as herein agreed, or shall fail to keep any of the covenants contained in the lease, or shall assign this lease or under-let said premises, or any part thereof, then this lease shall, at the election of landlord, be null and void, and landlord or his legal representatives shall have the right to take possession of said premises, using such force as may be necessary with or without process of law, and all damages growing out of the failure to perform any of the covenants in this lease shall be added to and become part of the rent, recoverable as rent.
8. The tenant hereby waives and relinquishes all rights from exemption from sale or seizure under distress or execution that he now has or may hereafter have by virtue of any law of the state exempting personal property from seizure and sale on execution or distress for rent, and landlord shall have, in addition to the lien given him by law, a lien upon the terms of this lease and a lien upon all personal property owned by tenant during the term of this lease whether said property is exempt or not, and tenant gives landlord full power and right to take and seize any personal property whether exempted by law or not, and sell the same or any part thereof in satisfaction of said rent hereby agreed to be paid.
9. Tenant also agrees to pay and discharge all costs and attorney's fees, or any expense that shall arise from enforcing any of the covenants of this lease by landlord, and it is further agreed by and between the parties that all crops growing in stack, crib or granary, on said premises shall be security for all sums due or to become due from tenant, as evidenced by book account or note held by landlord.
10. Tenant further agrees that he will plant on said premises only such kinds of crops as shall be named and designated by landlord, it being understood that landlord shall designate the kind and nature of the crops to be planted in any particular year during the term of this lease thirty days before the usual period for planting said crops.
11. It is further agreed that tenant shall, without charge, repair and keep in repair during the terms of this lease, all the irrigation ditches and laterals in connection with the above described premises in any manner, whether the said ditches or laterals are on the premises or elsewhere. And that tenant will not permit the water to break out from said ditches or laterals, and tenant will not allow any damage to result to the public or private individuals by breaking out of said ditches or laterals. And should such break occur or damages result, tenant agrees to reimburse landlord for any sum he may be required to pay. Landlord shall have a lien on all crops and other property above mentioned as security for the payments of said amount.
12. Tenant shall keep the said premises, and the roads adjacent thereto free from all weeds of every kind and nature. The said weeds shall be eradicated as soon as they come through the ground. No weeds shall be allowed to bloom or to otherwise spread on the premises. All suggestions for the control and eradication of said weeds that may be made by landlord shall be put into operation by tenant, and should tenant refuse or fail to control or eradicate the said weeds within ten days after notice from landlord, then landlord may proceed to control or eradicate the said weeds, and any expenses so incurred shall be paid by tenant, and landlord shall have a lien on all of the crops on said premises belonging to tenant for the amount so expended. Tenant further agrees to comply with all orders of the Board of County Commissioners or the Bureau of Noxious Weed Control which may be issued for the control or eradication of noxious weeds in said premises, or on the roads adjacent thereto, and in the event that landlord shall be required to comply with said orders then tenant shall be liable to landlord for the amount so expended and landlord shall have a lien on the crops belonging to tenant for said amount.

In witness whereof we have hereunto set our hands and seal, the day and year first written above.

D. B. Peterson
Ila Peterson
Landlord.
Rexford S. Howard
Junior Ostermiller
Tenant.

STATE OF IDAHO,
County of FREMONT } ss.

On this 6th day of February 1965, before me the undersigned, a notary public in and for the said state, personally appeared D. B. Peterson and Ila Peterson, Husband and Wife, Rexford S. Howard and Junior Ostermiller

known to me to be the person s whose name s are subscribed to the within lease and acknowledged to me they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Neil Peterson
Notary Public
Residing at XXXXXX20XX1869X
St. Anthony, Idaho
My Commission expires January 20, 1965

No. _____
IDAHO FARM LEASE
From _____
Dated _____, 19____
Expires _____, 19____
Recorded at the request of _____
minutes past _____ o'clock
M., in Record _____ of _____
Leases, page _____, Records of _____
County of _____
State of Idaho _____
Recorder _____
Deputy _____

June 4, 2004

**JUNIOR OSTERMILLER
EAST HWY 33
NEWDALE ID 83436**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-12900

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the end of water rights review in Basin 22, the Teton River drainage. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

Your claim, as referenced above, claims a Priority Date of FEB 1 1965, from GROUNDWATER.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence which are acceptable and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some Examples of Documents Which May Be Evidence of the Priority Date**". **PLEASE READ THE ENCLOSED PAMPHLET.**

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

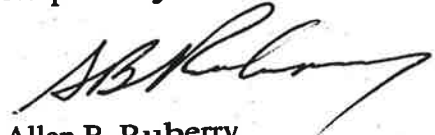
SCANNED

AUG 20 2007

.....
The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.
.....

Please submit documentation supporting the priority date within 30 days of the date of this letter, referencing all documents with the corresponding claim number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact this office.

Respectfully submitted,



Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"

SCANNED

AUG 20 2007



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 10, 2005

JUNIOR OSTERMILLER
EAST HWY 33
SANEWDALE ID 83436

FINAL NOTICE
PLEASE READ

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 22-12900

Dear Claimant (s):

The Idaho Department of Water Resources is beginning water rights review in Basin 22, the Teton Valley area. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary proof to support the priority date.**

Your claim, as referenced above, claims a Priority Date of JUNE 1, 1965, from a WELL.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence which are acceptable and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some Examples of Documents Which May Be Evidence of the Priority Date**". **PLEASE READ THE ENCLOSED PAMPHLET.**

SCANNED

AUG 20 2007

Glen Godfrey

RECEIVED

MAY 20 2005

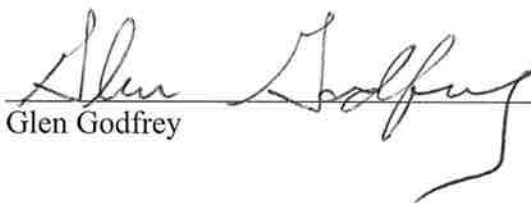
Department of Water Resources
Eastern Region

STATE OF IDAHO)
)ss.
County of Fremont)

Glen Godfrey, being duly sworn on oath, deposes and states as follows:

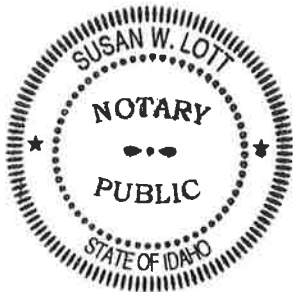
I am over the age of eighteen (18) years old and competent to testify as to the following facts and have personal knowledge as to the following facts.

1. I currently reside at 310 Park St., Newdale, Idaho, 83436.
2. I was a neighbor of Junior Ostermiller and my father, Reese J. Godfrey, farmed ground close to Mr. Ostermiller's farm and to Mr. Dyle Peterson's property. Because I worked for my father on his farm, which was close to Ostermiller's farm and Peterson's property, I became familiar with how the Peterson property was irrigated.
3. Mr. Peterson's property was farmed by both Junior Ostermiller and Rex Howard and both of these men used water from the well located south of Junior's home in Township 06N, Range 41E, Sec. 3 in Madison County, to irrigate the Peterson property. This well was drilled sometime around 1961 or 1962 to irrigate property owned by Mr. Ostermiller, Mr. Howard, and my father. When Mr. Ostermiller and Mr. Howard entered into a lease with Mr. Peterson in 1965, both men used water from this well to irrigate the approximately eighty (80) acres of land owned by Mr. Peterson. Because the Peterson place is uphill from this well, I remember that a booster pump was installed and used in order to get water to Peterson's property.


Glen Godfrey

SCANNED
AUG 20 2007

SUBSCRIBED AND SWORN to me this 30th day of April, 2005.



Susan W. Lott
Notary Public for the State of Idaho
Residing at: Newdale, Fremont County
My Commission Expires: 3/18/2006

Boyd E. Howard

STATE OF IDAHO)
)ss.
County of FREMONT)

RECEIVED

MAY 20 2005

Department of Water Resources
Eastern Region

Boyd E. Howard, being duly sworn on oath, deposes and states as follows:

I am over the age of eighteen (18) years old and competent to testify as to the following facts and have personal knowledge as to the following facts.

1. I currently reside at 150 Church St., Newdale, Idaho, 83436.
2. My father, Rex Howard, farmed one-half of Mr. Peterson's property up until 1986. Because I worked for my father on his farm and actually worked on Peterson's property moving irrigation pipe and performing other work, I am familiar with how Peterson's property was irrigated. In addition, I was a neighbor of Junior Ostermiller's and became familiar with how he irrigated Peterson's property.
3. My father utilized a well located south of my home in Township 06N, Range 41E, Sec. 3 in Madison County to irrigate property leased to him from Mr. Dyle Peterson for our farm up until 1986. After my father ceased leasing our one-half of Peterson's property, Junior Ostermiller leased all of Peterson's property. I am not sure how Junior irrigated all of the property after we stopped leasing our portion of Peterson's property.
4. The Remarks section on the Adjudication Claim Report for Water Right No. 22-12900 states that this is an expansion of License No. 22-02180, but this is not correct because it is actually the well for Water Right No. 22-2200 that was used to irrigate Peterson's property from 1965 until 1986 while we were farming our one-half portion of Peterson's property.
5. I remember when water from the well located in 06N, Range 41E, Section 3 was first used to irrigate Mr. Peterson's property because I observed that Peterson's property was irrigated from this well, I turned the well on and off to irrigate

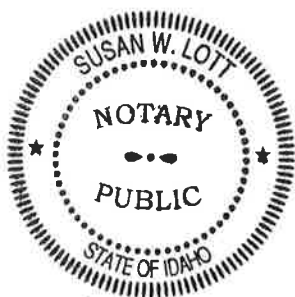
SCANNED
AUG 20 2007

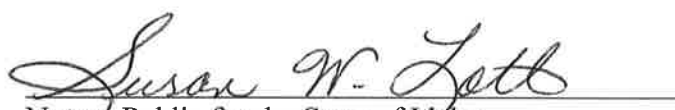
Peterson's, and I moved pipe on the one-half portion of Peterson's property farmed by my father.

6. In addition, I have attached a true and correct copy of a Depreciation Schedule written by my father and labeled it as "Exhibit A". The entries in the first three lines of the Depreciation Schedule under the column entitled "Kind of Property" refer to the pump and other materials that were purchased when the well in Section 3 was first used. The "Pump & S. pipe" referred to on the fourth line refers to a booster pump that my father purchased once he entered into the lease with Mr. Peterson. Because water had to be pumped uphill to irrigate Peterson's, it was necessary for my father to use a booster pump to get water from the well to Peterson's property.


Boyd E. Howard

SUBSCRIBED AND SWORN to me this 30th day of April, 2005.




Notary Public for the State of Idaho
Residing at: Newsdale, Idaho
My Commission Expires: 3/18/2006

Name REXFORD S. HOWARD

DEPRECIATION SCHEDULE

(Special First Year and Salvage Value)

Year Ended

19

Address _____ METHOD CODE: SL - Straight Line DB - Declining Balance SY - Sum of Years

S.S. or Identification No. 517-07-4230

1. Kind Of Property	2. Date Acquired	3. Cost or Other Basis	4. BASIS ADJUSTMENTS		5. Adjusted Basis	6. Method	7. Rate of Life Years	8. DEPRECIATION		9. DEPRECIATION	
			Special First Year Depreciation	Estimated Salvage Value				Reserve To 12-31-78	For This Year 19 79	For This Year 19 80	For This Year 19 81
PUMP & SPRINKLER PIPE	1961	2480 51				SL	20	2232 06	124 00	124 45	2480 51
3/4 MI MAINLINE	✓	3882 81				✓	✓	3494 38	194 00	194 43	3882 81
PUMP & WELL	✓	2538 40				✓	✓	2284 60	127 00	126 90	2538 40
PUMP & S. PIPE	1965	2278 83				✓	✓	1917 02	114 00	114 00	2145 02
POTATO QUANSETT	8-69	10,950 00				✓	20	5475 00	548 00	548 00	6571 00
FORBES POTATO DIGGER	9-15-72	1350 00	270 00		1080 00	✓	7	976 84	103 16	-	1080 00
1973 FORD 1/2 TON P.U.	7/73	3836 75	767 35		3069 40	✓	8	2110 55	384 00	384 00	2873 55
PORTABLE ELEC. GENERAT	6/73	697 00	139 40		557 60	✓	✓	389 46	70 00	70 00	529 46
USED NEW HOLLAND HAY BALER	6/73	1250 00	250 00		1000 00	✓	✓	697 91	125 00	125 00	947 91
USED STEEL POTATO BED	9/73	300 00	60 00		240 00	✓	✓	160 00	30 00	30 00	220 00
USED SEED CUTTER	4/73	625 00	125 00		500 00	✓	✓	349 87	63 00	63 00	475 87
METAL SHOP 40X60	9/74	11,130 00				✓	10	4823 00	1113 00	1113 00	7049 00
USED TRUCK HOIST	4/74	150 00	30 00	SL 2 1/2 (79)	120 00	DB	7	98 03	9 00	9 00	116 03
POTATO PILER (USED)	1-74	2450 00	490 00	SL 2 (79)	1960 00	✓	✓	1595 56	182 00	182 00	1959 56
HESON POTATO DIGGER (U)	2-74	5000 00	1000 00	SL 2 1/2 (79)	4000 00	✓	✓	3654 89	138 00	138 00	3930 89
WEED SPRAYER (USED)	7-74	479 00	95 80	SL 2 1/2 (79)	383 20	✓	✓	319 44	26 00	26 00	371 44
NEW SPRINKLER PIPE	5-74	1639 52	327 90	SL 2 1/2 (79)	1311 62	DB	7	1035 22	111 00	111 00	1257 22
NEW GAS CAN TANK	6-74	269 00	53 80	SL 2 1/2 (79)	215 20	✓	✓	189 73	10 00	10 00	209 73
COW SHED	11-75	417 43				SL	7	188 89	60 00	60 00	303 89
1957 CHEV TK	2-8-75	1000 00	200 00		800 00	✓	✓	447 86	114 00	114 00	675 86
1958 INT. TRACTOR	7-75	7000 00	1400 00		5600 00	✓	✓	2800 00	800 00	800 00	4400 00
DUAL LOADER	7-75	2200 00	440 00		1760 00	✓	✓	880 28	251 00	251 00	1382 28
TOOL SHED	7-75	286 00	57 00	SL 2 1/2 (80)	229 00	DB	7	162 33	19 00	19 00	200 33
HARROWS	5-76	451 40				SL	7	166 57	64 00	64 00	294 57
SEED PILER	7-76	400 00				✓	✓	138 08	57 00	57 00	252 08
SPRINKLER PIPE	4-76	116 34				✓	✓	44 28	17 00	17 00	78 28
STEEL POTATO BED (U)	4/78	490 90	98 00		392 90	DB	✓	74 80	91 00	65 00	2
INT. DIESEL TRACTOR 806	6/78	6000 00	1200 00		4800 00	✓	✓	685 68	1176 00	840 00	270
SPRINKLER PIPE	7/78	92 50	19 00		73 50	✓	✓	8 75	19 00	13 00	4
YAMAHA MOTOR BIKE, 1974	✓	360 50	72 00		288 50	✓	✓	34 35	73 00	52 00	15
TOTAL DEPRECIATION								37435 43	6,212 16	5720 68	49

tabbles

EXHIBIT

Carol Ostermiller

STATE OF IDAHO)
County of Madison)ss.

RECEIVED

MAY 20 2005

Department of Water Resources
Eastern Region

Carol Ostermiller, being duly sworn on oath, deposes and states as follows:

I am over the age of eighteen (18) years old and competent to testify as to the following facts and have personal knowledge as to the following facts.

1. I currently reside at 8881 E. Hwy 33, Newdale, Idaho, 83436.
2. I was married to Junior Ostermiller for 28 years until his death on October 8, 1994. Because of marriage to my husband, I am familiar with how the farm was run and how water was used on our farm. I am also well acquainted with the property farmed by my husband.
3. My husband utilized a well located south of my home in Township 06N, Range 41E, Sec. 3 in Madison County to irrigate property leased to my husband from Mr. Dyle Peterson for our farm up until 1995. My husband leased one-half of Peterson's property and Rex Howard leased the other half of Peterson's property. I have attached to this affidavit a true and correct copy of the lease entered into between Mr. Peterson, the lessee, and Rexford Howard and Junior Ostermiller, the lessors, and labeled it as "Exhibit A". As indicated on the lease, it was entered into on February 6, 1965. Both Mr. Howard and my husband used water from the same well located south of my home in Township 06N, Range 41E, Sec. 3, beginning in the spring of 1965, to irrigate Peterson's property. In 1986, Mr. Howard stopped leasing his half of Peterson's property and my husband thereafter leased Rex's portion from Mr. Peterson. At this point, my husband decided to use water from our other well located in Township 06N, Range 41E, Sec. 2 to irrigate all of Peterson's property because he felt that it would be easier to get water to Peterson's property this way. Water was used from this well in Township 06N, Range 41E, Sec. 2 to irrigate Peterson's property until 1995.

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4. The Remarks section on the Adjudication Claim Report for Water Right No. 22-12900 states that this is an expansion of License No. 22-02180, but this is not correct because the well located south of my home (which diverts water for Water Right No. 22-2200) was the well actually used to irrigate Peterson's property from 1965 until 1995. This well was drilled around 1961 to irrigate our farmland located just south of my home. I have attached a copy of the water license we received for this well as Exhibit B. Once my husband and Mr. Howard leased Peterson's property beginning in 1965, water was used from this well to irrigate the approximately eighty (80) acres of land owned by Mr. Peterson.
5. I remember when water was first used to irrigate Mr. Peterson's property because I found a copy of the first lease entered into between my husband, Mr. Howard and Mr. Peterson, dated February 6, 1965, and this refreshed my memory of when the lease began.
6. I also remember when water was first used to irrigate Mr. Peterson's property because it happened just before my husband and I were married in 1966. I remember this time because we increased our farm acreage to make a better living. I also remember baling and collecting hay grown on Peterson's property right around the time that I was married in 1966.


Carol Ostermiller

SUBSCRIBED AND SWORN to me this 11 day of April, 2005.



Marilyn Gunn
Notary Public for the State of Idaho
Residing at: Leton, Idaho
My Commission Expires: 3-10-09

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
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DeANNE CASPERSON**
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IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
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Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

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MAY 20 2005
Department of Water Resources
Eastern Region

May 18, 2005

RECEIVED

Department of Water Resources
Eastern Region

Allen B. Ruberry
Idaho Department of Water Resources
Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

RE: Proof of Beneficial Use for Water Right No. 22-12900

Dear Allen:

Enclosed with this letter are a number of documents relating to SRBA Water Right Claim 22-12900. We appreciate your flexibility in allowing us additional time to provide evidence of the priority date associated with this right. As you may remember from our brief discussion over a month ago, the notices were sent to the widow of Junior Ostermiller (the presently-listed Current Owner) and she did not fully appreciate what these notices required her to do. Mr. Ostermiller died on October 8, 1994. We have worked as quickly as possible to provide the Department with the information that it has requested.

The enclosed documents are intended to prove a priority date of May 1, 1965 (not February 1, 1965 as presently listed on the Adjudication Claim Report) and to clean up some other issues related to this water right. We believe that the following discussion will be helpful in explaining the history of this water right and why some changes are necessary.

In order to better understand the following, please refer to the aerial photo with drawn quarter-quarter sections enclosed with this letter. First, as indicated by the Adjudication Claim Report, Water Right No. 22-12900 is appurtenant to property owned by Mr. Dyle Peterson. Mr. Peterson's property is highlighted in yellow and outlined in red on the aerial photo. This property was never owned by Junior Ostermiller, but Mr. Ostermiller filed this SRBA claim on Mr. Peterson's behalf because Mr. Ostermiller was leasing Mr. Peterson's property at the time. For some reason, Mr. Ostermiller is listed as the Current Owner. Enclosed with this letter is an

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AUG 20 2007

Amended Notice of Claim to a Water Right and a copy of a Motion to file an Amended Notice of Claim with the SRBA court that, among other things, proposes to change the Current Owner designation from Junior Ostermiller to Dyle Peterson.

As explained by the enclosed affidavits, Mr. Peterson leased his property to both Junior Ostermiller and Rex Howard beginning in 1965. The enclosed affidavits and other documents also demonstrate that both farmers pumped water from a well located in 06N, 41 E, **Sec. 3** (not 06N, 41E, **Sec. 2** as listed on the Adjudication Claim Report) from 1965 until 1986. The approximate location of this well is indicated on the aerial photo and is labeled as "correct point of diversion." Mr. Howard and Mr. Ostermiller also used this point of diversion to irrigate other property owned by each of these men and by Mr. Reese Godfrey under Water Right No. 22-2200. These properties are located to the north of Mr. Peterson's property. Therefore, Water Right No. 12-12900 is an expansion of Water Right No. 22-2200 and not an expansion of Water Right No. 12-0218 as indicated on the Adjudication Claim Report. The Amended Notice of Claim to a Water Right and the Motion to file an Amended Notice of Claim with the SRBA court seek to correct this error.

In 1986, Mr. Howard ceased leasing his half of Peterson's property and Mr. Ostermiller began leasing all of Mr. Peterson's property. At this point, Mr. Ostermiller decided that it would be easier to divert water from a well located in 06N, 41E, **Sec. 2** that he also owned. Mr. Ostermiller irrigated Peterson's property from this well in Sec. 2 until his death in 1994. Mr. Ostermiller did not file a transfer application to change the point of diversion for this right, but he did irrigate the property from the point of diversion in Sec. 2 until 1994.

This history is useful to understanding why Mr. Ostermiller, filing on behalf of Mr. Peterson, listed the point of diversion as being in Sec. 2 because at the time he filed the claim for Water Right No. 22-12900 around 1990, Mr. Ostermiller was actually using the point of diversion in Sec. 2 without realizing that he was using that point of diversion illegally. As set forth in the affidavits, the correct point of diversion for this water right is in Sec. 3. The Amended Notice of Claim to a Water Right and the Motion to file an Amended Notice of Claim with the SRBA court seeks to correct this error.

Beginning in 1995, Mr. Peterson began leasing all of his property to Mr. Layne Harris. Mr. Harris is the current lessee of the property and owns property south of Peterson's property. Back in 1995, Mr. Harris began diverting water from a well located south of Mr. Peterson's property in 06N, 41E, **Sec. 10** to irrigate the Peterson property. In the process of figuring out the history of Water Right No. 22-12900, Mr. Harris now realizes that he should have filed a transfer application to change the point of diversion and intends to file such an application for transfer in the next few months.

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AUG 20 2007

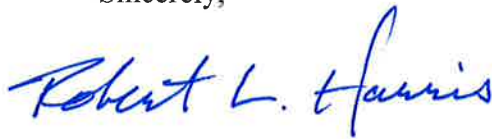
Allen B. Ruberry
May 18, 2005
Page 3 of 3

Concerning the priority date, since this is a claim for enlargement of 22-2200, the priority date relates back to when the enlargement occurred. None of the three affiants could remember the exact date that water was first applied to the Peterson property, but they all know that it was sometime in the spring of 1965. It is highly unlikely that the property was first irrigated in February. Therefore, we believe that the correct priority date should be May 1, 1965 because this is the time that water was most likely first applied to the Peterson property.

In sum, the Amended Notice of Claim to a Water Right and the Motion to file an Amended Notice of Claim with the SRBA court seeks to change the Current Owner (from Mr. Ostermiller to Mr. Peterson), the priority date (from Feb. 1, 1965 to May 1, 1965), and the point of diversion (from 06N, 41 E, Sec. 2 to 06N, 41E, Sec. 3). It also is intended to clarify that Water Right No. 22-12900 is an expansion of Water Right No. 22-2200 rather than Water Right No. 22-02180. Water Right No. 22-12900 has been used every year since 1965 to irrigate Peterson's property and has not been forfeited. However, three different points of diversion have been used to divert water under this right. Given the history set forth in the enclosed documents, the point of diversion that should be partially decreed by the SRBA court is found in 06N, 41 E, Sec. 3 because that point of diversion was used when this enlargement was accomplished. The water right is currently being diverted from a well in 06N, 41E, Sec. 10 by Mr. Layne Harris to irrigate Mr. Peterson's property. Mr. Harris will file a transfer application to change the point of diversion within the next few months.

We hope the above history and enclosed documents are clear as to what has occurred with Water Right No. 22-12900. It appears that the SRBA was intended to cleanup situations just like this one. We appreciate your assistance with this matter. Please do not hesitate to call if you have any questions.

Sincerely,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

cc: Dyle Peterson
Layne Harris

SCANNED
AUG 20 2007

OKge
6/1/05

RECEIVED
JUN 01 2005
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

data entry done JC 6/1/05

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>22-2180</u>	_____	___	_____	_____	___
<u>22-2200</u>	_____	___	_____	_____	___
<u>22-12900</u>	_____	___	_____	_____	___
_____	_____	___	_____	_____	___
_____	_____	___	_____	_____	___

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) JUNIOR OSTERMILLER
E. Hwy 33 NEWDALE, ID 83436
4. New Owner/Claimant(s) CAROL OSTERMILLER
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address P.O. Box 142 8881 E. HIGHWAY 33
- City, State and ZIP Code NEWDALE, ID 83436
- New Telephone Number (208) 458-4135
5. Date you acquired the property OCTOBER 8, 1994

SCANNED
JUN 15 2005

PROFIT

CERTIFICATION OF VITAL RECORD

STATE OF IDAHO IDAHO DEPARTMENT OF HEALTH AND WELFARE COOPERATIVE CENTER FOR HEALTH STATISTICS

State of Idaho CERTIFICATE OF DEATH

State File No. _____
Local Reg. No. 484 #7

ONLY A COPY OF THIS DOCUMENT, CERTIFIED BY THE STATE REGISTRAR, WITH THE DEPT. OF HEALTH & WELFARE RAISED SEAL, SHALL BE USED AS PROOF (FACE EVIDENCE OF THIS DEATH UNDER IDAHO CODE 39-2101 & 39-27)

TYPE OR PRINT IN PERMANENT BLACK INK. DO NOT USE FELT TIP PEN. NAME OF DECEDENT: For use by physician or institution.	DECEDENT — NAME FIRST: <u>JUNIOR</u> MIDDLE: <u>OSTERMILLER</u> LAST: <u>OSTERMILLER</u>		SEX: <u>Male</u>	DATE OF DEATH (Month, Day, Year) <u>Oct. 8, 1994</u>
	SOCIAL SECURITY NUMBER <u>[REDACTED]</u>		AGE — Last Birthday (M, Y) <u>63</u>	DATE OF BIRTH (Month, Day, Year) <u>Oct. 16, 1930</u>
	WAS DECEDENT EVER IN U.S. ARMED FORCES? ☐ Yes ☒ No		PLACE OF DEATH (Check only one) (1) ☒ Inpatient (2) ☐ ER/Outpatient (3) ☐ DOA	(4) ☐ Licensed Nursing Home (5) ☐ Private Residence (6) ☐ Licensed Shelter Home (7) ☐ Other (Specify) _____
	FACILITY NAME AND ADDRESS (If not a hospital, enter name of place, street, and number) <u>Eastern Idaho Reg. Medical Center</u>		CITY, TOWN OR LOCATION OF DEATH <u>Idaho Falls</u>	
MARITAL STATUS — Married, Never Married, Widowed, Divorced (Specify) <u>married</u>		SURVIVING SPOUSE (If wife, give maiden name) <u>Carol Godfrey</u>		DECEASED'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.) <u>farmer</u>
RESIDENCE STATE <u>Idaho</u>		COUNTY <u>Madison</u>	CITY, TOWN OR LOCATION <u>Newdale</u>	STREET AND NUMBER <u>8881 East Hwy. 33</u>
INSIDE CITY LIMITS? ☒ Yes ☐ No		WAS DECEDENT OF HISPANIC ORIGIN? (Specify No or Yes — If yes, specify Cuban, Mexican, Puerto Rican, etc.) ☐ Yes ☒ No		RACE — American Indian, Black, Japanese, Wt'g, etc. (Specify) <u>white</u>
DECEASED'S EDUCATION (Specify only highest grade completed) 12		18. DECEASED'S EDUCATION (Specify only highest grade completed) Elementary/Secondary (9-12) College (14 or 5+)		
FATHER — NAME <u>Johann George Ostermiller</u>		BIRTHPLACE <u>Russia</u>		MOTHER — FULL MAIDEN NAME <u>Maria Katherina Kurueger</u>
INFORMANT <u>Carol G. Ostermiller</u>		MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code) <u>P.O. Box 142, Newdale, Idaho 83436</u>		
METHOD OF DISPOSITION ☒ Burial ☐ Cremation ☐ Removal from Idaho		PLACE OF DISPOSITION (Home of cemetery, crematory, or other place) <u>Teton - Newdale Cemetery</u>		
DISPOSITION ☐ Donation ☐ Other (Specify) _____		LOCATION — City or Town, State <u>RFD Teton City, Idaho</u>		
SIGNATURE OF FUNERAL SERVICE LICENSEE OR PERSON ACTING AS SUCH <u>Gary D. Bidwell</u>		LICENSE NUMBER (of Licensee) <u>M539</u>		
NAME AND ADDRESS OF FACILITY <u>Bidwell Funeral Home</u>		P.O. Box 60, St. Anthony, Id. 83445		
TIME OF DEATH <u>9:45 P.</u>		DATE PRONOUNCED DEAD (Month, Day, Year) <u>Oct. 8, 1994</u>		WAS CASE REFERRED TO CORONER? ☐ Yes ☒ No
PART I Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line.		MANNER OF DEATH (Check One) ☒ Natural ☐ Homicide ☐ Suicide ☐ Accident		
IMMEDIATE CAUSE (Final disease or condition resulting in death) <u>Cardio-Respiratory Arrest</u>		Approximate Interval Between Onset and Death <u>Minutes</u>		
IMMEDIATE CAUSE (Final disease or condition resulting in death) <u>Acute Myocardial Infarction</u>		Hours		
IMMEDIATE CAUSE (Final disease or condition resulting in death) <u>Coronary Artery Obstructive Disease</u>		Years		
IMMEDIATE CAUSE (Final disease or condition resulting in death) <u>Atherosclerosis</u>		Years		
PART II Other Significant Conditions contributing to death but not resulting in the underlying cause given in Part I.		WAS AN AUTOPSY PERFORMED? ☐ Yes ☒ No		
WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? ☐ Yes ☐ No		YES NO		
CERTIFIER (Check only one) ☒ PHYSICIAN — To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated. ☐ CORONER — On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner as stated.				
SIGNATURE AND TITLE OF CERTIFIER <u>[Signature]</u>		LICENSE NUMBER <u>M-5171</u>		DATE SIGNED (Month, Day, Year) <u>10-31-94</u>
NAME AND ADDRESS OF CERTIFIER (If physician) <u>B. SHIELDS STUTTS, M.D. 2860 Channing Way Suite 225, Idaho Falls, Id. 83404</u>				
DATE OF INJURY (Mo., Day, Yr.) <u>Oct. 8, 1994</u>		HOUR OF INJURY <u>9:45 P.</u>		
INJURY AT WORK? ☐ Yes ☒ No		TRANSPORTATION ACCIDENT, Specify ☐ Driver ☐ Passenger ☐ Pedestrian ☐ Other _____		
PLACE OF INJURY — At home, farm, street, factory, office building, etc. (Specify) <u>At home</u>		LOCATION (Street or Route Number, City/Town, or County, and State) <u>Newdale, Idaho</u>		
CORONER'S REVIEW AREA CORONER'S ACTION (Check One) ☐ Reviewed Only ☐ Reviewed, Completed Items 26 and/or 30 ☐ Reviewed, Amended and Certified		CORONER'S SIGNATURE <u>[Signature]</u>		
REGISTRAR'S SIGNATURE <u>[Signature]</u>		DATE FILED (Month, Day, Year) <u>Nov 1, 1994</u>		

VITAL STATISTICS COPY

At a minimum, complete items 1; 3; 9a, b, c, d; 21a, b; 22; and 29a for the 24 Hour Report & Authorization For Final Disposition

52545

I certify that this is a true and correct reproduction or abstract of an official record filed with the IDAHO COOPERATIVE CENTER FOR HEALTH STATISTICS.

JUN 15 2005
DATE ISSUED: Nov 1, 1994

JANE S. SMITH
State Registrar

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
MARIE T. TYLER
ROBERT M. FOLLETT*
FREDERICK J. HAHN, III
KARL R. DECKER
THEL W. CASPER*
SHAN B. PERRY
AMELIA A. SHEETS
DeANNE CASPERSON**
ROBERT L. HARRIS

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL RHARRIS@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn

*Also Licensed in Utah and Arizona
**Also Licensed in Missouri & Kansas

May 31, 2005

RECEIVED

JUN 01 2005

Department of Water Resources
Eastern Region

Allen B. Ruberry
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402-1718

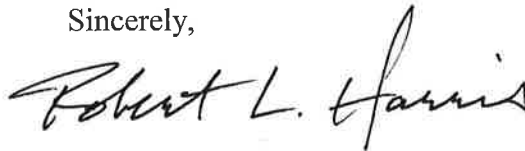
Re: Notice of Change in Water Right Ownership
From Junior Ostermiller to Carol Ostermiller

Dear Allen:

Enclosed with this letter is a Notice of Change in Water Right Ownership filed on behalf of Carol Ostermiller. A few months ago, you and I talked about changing the names on Junior Ostermiller's water rights from his name to his wife's name. As you requested, I have included a copy of Junior Ostermiller's death certificate. As you can see, Junior died on October 8, 1994. Carol Ostermiller, his wife, inherited his real property, including his water rights.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Robert L. Harris

Enclosures

c: Carol Ostermiller

G:\WPDATA\ARLH\12727 Ostermiller, Carol\AJ Ruberry\053105.wpd.cdv

SCANNED
JUN 15 2005

PROFILED

RECEIVED

MAY 20 2005

Department of Water Resources
Eastern Region

COPY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case 39576

) Subcase 22-12900

) (Insert water right number)

) STANDARD FORM 4

) MOTION TO FILE:

) ☐ LATE NOTICE OF CLAIM

) ☒ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in ***SRBA Administrative Order 1, Rules of Procedure*** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is DYLE PETERSON

My address is 418 N. 2700 E. ST. ANTHONY, ID, 83445

My phone number is: Work _____ Home (208) 624-3629

I am an attorney representing DYLE PETERSON

My name is ROBERT L. HARRIS

My address is P.O. Box 50130 IDAHO FALLS, ID 83405

My phone number is (208) 523-0620

MOTION TO FILE A LATE NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A *Motion to File an Amended Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☒ I must amend my Notice of Claim to the use of water in the SRBA because:

JUNIOR OSTERMILLER, WHO FILED ON MY BEHALF, MADE SOME
MISTAKES WHEN HE FILED. WATER RIGHT 22-12900 IS AN EXPANSION
OF WATER RIGHT 22-2200 (NOT 22-2180), SO THE POINT OF DIVERSION
NEEDS TO BE CHANGED. IN ADDITION, ~~DIANE~~ I (NOT JUNIOR OSTERMILLER)
SHOULD BE LISTED AS THE CURRENT OWNER. LASTLY, THE PRIORITY DATE
SHOULD BE MAY 1, 1965, RATHER THAN FEB. 1, 1965.

- ☒ I am providing legal and factual documentation to support my amended Notice of Claim.
You must describe these documents and attach a readable copy.

AFFIDAVIT OF CAROL DYER MILLER (INCLUDING DOCUMENTS SUPPORTING
HER AFFIDAVIT); AFFIDAVIT OF BOYD E. HOWARD (INCLUDING DOCUMENTS
SUPPORTING HIS AFFIDAVIT); AFFIDAVIT OF GLEN GODFREY.

I have attached:

- ☒ An amended Notice of Claim (available from IDWR):

- ☒ Payment of the following additional fees required by IDWR:

NONE

VERIFICATION (Must be completed)

State of IDAHO

County of BONNEVILLE

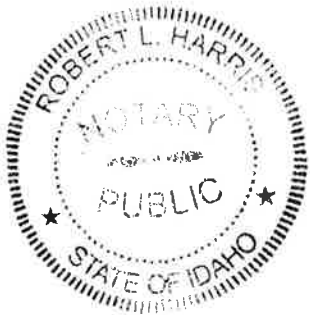
DYLE B. PETERSON, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Dyle B. Peterson
Signature of person filing motion

Robert L. Harris
Attorney signing in representative capacity

Subscribed and sworn to before me on MAY 11, 2005
(Insert Date)



Robert L. Harris
Notary Public for STATE OF IDAHO
Residing at: Ammon, Bonneville County
My Commission expires: 11/18/2010

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on 19 May, ²⁰⁰⁵~~199~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

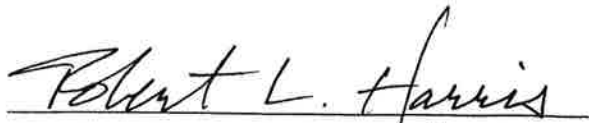
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)


Signature of person or attorney mailing the form

RECEIVED

APR 13 1961

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Department of Reclamation

Permit No. G-28873

Proof of Application of Water to Beneficial Use

and Completion of Works

Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Gilair Robinson, Newdale, Idaho, Farrak, Newdale, Idaho.

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans.

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. Permit No. G-28873, dated July 26, 1960. Date of priority is July 26, 1960.

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Subterranean water supply. Point of diversion is near center of the W₂ of Sec. 2, Twp. 6 N., R. 41, E.B.M., Madison County, Ida.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use. If a well, state depth of well, depth and size of casing and depth to water. If pump is used, state discharge of pump and tell how it was measured or determined. If sprinkler irrigation, give number and size of nozzles and operating pressure.

Ans. Pump, with electric motor, main and lateral pipes. Will convey 3.67 cubic feet per second. Conducted by mainline and lateral pipes. Well is 350 feet deep, 345' of 10" casing, 270 feet to water. Discharge of pump is 3.67 cubic feet per second. Measured by test pump. 200 heads operated at 40 lbs. per head, with each delivering 6 1/2 gal. per minute.

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. Water is used for irrigation. Twp. 6 N., R. 41, E.B.M. Sec. 2 - NE₁NW₁, NW₁NW₁, SW₁NW₁ and SE₁NW₁; NE₁SW₁, NW₁SW₁, SW₁SW₁ and SE₁SW₁. Twp. 6 N., R. 41 E.B.M. Sec. 11 - NE₁NW₁ and NW₁NW₁. All in Madison County, Idaho. 24 a. NE₁NW₁, 40 a. NW₁NW₁, 40 a. SW₁NW₁, 24 a. SE₁NW₁, 24 a. NE₁SW₁, 40 a. NW₁SW₁, 40 a. SW₁SW₁, & 24 a. SE₁SW₁ in Sec. 2; 24 a. NE₁NW₁ & 40 a. NW₁NW₁ in Sec. 11. Cultivated land. Have put an additional 100 acres under irrigation as a result of the irrigation system.

Ques. 6-A If this is a ground water permit, give name and address of person that drilled the well.

Ans. Charles Cope, Idaho Falls, Idaho.

28873

Ques. 7. All for other than irrigation purposes; state how applied, amount of horse power generated, etc.

Ques. 8. What is the minimum amount of water required for the purpose specified above?

A. The 3.57 cubic feet per second applied for plus the approximately 1.5 miner's in. from Canyon Creek Canal Company, which is seasonal.
Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

A. Used during the summer of 1960, beginning about May 1. Irrigated the full 320 acres.

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

A. In the spring we get about 1.33 in. from the Canyon Creek Canal Company, but it dwindles down to nothing through the summer.

(Sgd) Clare Robinson

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me at my office in Rexburg County of Madison

State of Idaho, on the 20th day of December A. D. 1960.

My commission expires January 26, 1963.

Ray W. Rigby
Notary Public for Idaho
Residing at Rexburg, Idaho

RECEIVED
DEPARTMENT OF REGISTRATION

NOTICE OF PRIOR COMPLETION OF WORKS
AND
APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10 A.M., on the 10th day of December,
1940, at Paris, County of Madison, State of Idaho,
I, Ray M. Carter, Notary Public, at (address) _____
_____ proof will be submitted of the completion of
works for the diversion of 3.67 cubic feet per second of underground water
from well and for the application to beneficial use of said water, in accordance
with the terms and conditions of Permit No. W 33973 heretofore issued by
the Department of Registration of the State of Idaho.

1. The name and postoffice address of the person or corporation holding said
permit is Allen Robinson
McCall, Idaho.

2. Said work of diversion will be fully completed on the date set for such com-
pletion, and the amount of water which said works are capable of conveying to the
surface is 3.67 cubic feet per second.

3. The use to which said water has been applied is for irrigation
_____ purposes, and the amount applied to beneficial use is
3.67 cubic feet per second.

4. The point of diversion of said water is near center of W¹ of Sec. 2,
Twp. 6 N., R. 41, E. 3 E., Madison County, Idaho.

5. The place where said water is used is W¹ of Sec. 1 and E¹ of Sec.
11, all in Twp. 6 N., R. 41, E. 3 E., in Madison County, Idaho.

6. The date of priority which said user is prepared to establish is
July 28, 1940

Ray M. Carter
State Registration Engineer

28873

NAME OF APPLICANT

Clair Robinson

Form

North

Foundation & North

2.41E



Laterals

Section II

East

Permit Map No. 428873

As Approved

GEO. N. CARTER

Professional Engineer

JUL 26 1980

South

July 1, 1961

Re: Permit No. 6-28373

Mr. Clair Robinson
Nevada, Idaho

Dear Mr. Robinson:

On field engineer's report on his inspection of proof of completion of work and application of water to beneficial use under the terms of Permit No. 6-28373 shows the well is ~~now~~ capable of conveying 250 ~~gallons~~ inches, or 3.10 c.f.s. of water for the irrigation of 257 acres.

Upon receipt of the statutory fees, totaling \$ 23.00 , we will issue the Certificate of Completion of Work (fee \$5.00) and the License and Certificate of Water Right (fee \$ 20.00 , based at the rate of \$2.00 for each 10-acre subdivision) confirming the right, with priority of July 19, 1960 , to the use of 3.10 second feet of subterranean water with the point of diversion at near corner of W₁, S. 2, T. 6 N., R. 11 E., S. 11, for irrigation of 257 acres in the E₁, S. 2; E₂ 1/4, S. 11, T. 6 N., R. 11 E., S. 11.

Very truly yours,

CHAS. E. CARTER
State Reclamation Engineer
By

(Mrs.) Edna F. Rale
Chief Clerk

Enc

28873

State of Idaho

License and Certificate of Water Right

Water License No. G-28873

Amount 3.10 c.f.s.

Water District No. _____

Priority July 19, 1960

THIS IS TO CERTIFY that CLAIR ROBINSON
of Newdale, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated July 19, 1960; that Permit No. G-28873
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
3.10 second feet, was issued thereunder on August 2, 1961, showing that said works
were completed on the 20th day of December, 1960; and that on the 20th
day of December, 1960.

CLAIR ROBINSON

of Newdale, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of a well
, a tributary of subterranean flow, for the purpose of irrigation
, under Use Permit No. G-28873 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
11 of Licenses at page 7129, on the 2nd day of August, 1961;
The right hereby confirmed dates from July 19, 1960;

The Point of Diversion is located near center of W $\frac{1}{2}$
in the - - $\frac{1}{4}$ - - $\frac{1}{4}$ Sec. 2, Tp. 6 N, R. 41 E., B. M. Madison County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 3.10 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
6 N	41 E	2	NE $\frac{1}{4}$ NW $\frac{1}{4}$	24	20
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	40	35
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	24	17
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	24	20
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	40	35
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	24	20
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	24	20
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			Total number of acres to be irrigated: 287		

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this

2nd day of August, 1961.

s/ RALPH W. THOMAS

Deputy State Reclamation Engineer.

(SEAL)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 22-12900

Date Received _____

Receipt Number _____

AMENDED NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
MAY 20 2005
Department of Water Resources
Eastern Region

1. Name of Claimant(s) Dyle Peterson Phone (208) 624-3629

Mailing Address 418 N. 2700 E. St. Anthony, ID Zip 83445

2. Date of Priority (Only (1) per claim) May 1, 1965

3. Source of water supply (a) Groundwater

which is tributary to (b) _____

4.a. Location of existing point of diversion is:

Township 6N Range 41E Section 3, SE 1/4 of NW 1/4 of 1/4, Govt. Lot _____,
County of Madison

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, 1/4 of _____ 1/4 of _____ 1/4 Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Water is diverted from the well with a pump.

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/15 to 10/15 amount .64 cfs or _____

7. Total quantity claimed (a) .64 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

SCANNED
AUG 20 2007

9. Non-irrigation uses; describe full use (eg. Domestic: Give number of household served; Stockwater: Type and number of livestock Etc.) _____
10. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	41E	3															37.0	37.0	74.0

Total number of acres irrigated 74.0

11. In which county(ies) are lands listed above as place of use located? Madison
12. Do you own the property listed above as place of use? Yes X No
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (X)

14. Remarks:

This amended application is intended to correct errors made in the initial application for Water Right 22-12900. The initial application was filed by Junior Ostermiller on behalf of Dyle Peterson. The water right should list Mr. Peterson as the current owner, not Mr. Ostermiller. Mr. Ostermiller was Mr. Peterson's lessee at the time, but Mr. Peterson is the owner of the property. Also, Mr. Ostermiller should have listed the point of diversion for this water right as being located in Township 06N, Range 41E, Section 3, SE1/4NW1/4 instead of in Section 2 because this water right was an expansion of Water Right No. 22-2200 and not an expansion of 22-02180. Lastly, the priority date should be May 1, 1965 and not February 1, 1965.

15. Basis of Claim (Check one) Beneficial Use Posted Notice Permit Decree License
If applicable provide IDWR Water Right Number Enlargement of Water Right No. 22-2200.
Court Case Number Decree Date
Plaintiff vs Defendant

16. Signature(s)

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Dyle B Peterson

Date May 11, 2005

Date _____

SCANNED
AUG 20 2007

Last Name _____ Ident. Number _____

For Organizations: I do solemnly swear or affirm that I am _____ of
(Title)
_____, that I have signed the foregoing document in the space below as
(Organization)
_____ of _____ and that the statements contained in the
(Title) (Organization)
foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho)
) SS.
County of BONNEVILLE)

Subscribed and sworn (or affirmed) before me this 11th day of MAY, 2007

Notary Public Robert L. Harris
Residing at Ammon, Bonneville County
My Commission Expires 11/18/2010



17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Robert L. Harris
Address P.O. Box 50130 Idaho Falls, ID 83405
Date May 11, 2007

SCANNED
AUG 20 2007

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A22-12900
Date Received: 12/31/1992
Receipt No: E018121
Received By: *[Signature]*

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JUNIOR OSTERMILLER 208-458-4135
Address: EAST HIWAY 33
NEWDALE ID 83436
2. Date of Priority: FEB 1, 1965
3. Source: GROUNDWATER Trib. to:
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|---------|
| 06N | 41E | 2 | SE | NW | | | MADISON |
5. Description of diverting works:
WELL WITH 200 HP PUMP TO MAINLINE AND SPRINKLERS
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/15 | 10/15 | 0.640 | | |
7. Total Quantity Appropriated is:
0.640 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 185.0 Acre Feet Per Annum.
9. Non-irrigation uses:
10. Place of Use:
- | Township | Range | Section | 1/4 of | 1/4 of | Lot | Use | Acres |
|----------|-------|---------|--------|--------|-----|-----|-------|
| 06N | 41E | 3 | SW | SE | | IRR | 37.0 |
| | | | SE | SE | | IRR | 37.0 |

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Date: 12/31/92

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32x1E

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	74.0
					Total Acres	74.0

11. Place of use in counties: MADISON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

14. Remarks:

THIS CLAIM IS FILED AS AN EXPANSION OF LICENSE NO. 22-02180. THE DIVERSION RATE WAS FOUND BY MULTIPLYING 74 ACRES X .0086 CFS/AC. MR. OSTERMILLER IS LESSEE OF THIS PROPERTY. HE FILING WITH THE PERMISSION OF THE OWNER OF THE PROPERTY, DYLE PETERSON. MR. PETERSON'S ADDRESS IS 418 N 2700 E, ST. ANTHONY ID. 83445. (208) 624-3629.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): J. Ostermiller Date: Dec 31, 1992

Date: _____

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State of Idaho)
County of Bannock) ss.

Subscribed and sworn (or affirmed) before me this 31st day
of Dec. 19 92

Gregory J. Taylor
Notary Public



Residing at Idaho Falls ID

My Commission Expires 7/3/98

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I give J. Ostermiller
the permission to file for
water on my land.
D. L. Peterson

a. Other:

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32x1

32x1

IDAHO FARM LEASE

This lease is entered into this 6th day of February
1965, between D. R. Peterson and Ila Peterson, Husband and Wife,
hereinafter designated
landlord, and Rexford S. Howard and Junior Ostermiller

hereinafter designated tenant.

Witnesseth: That landlord, for and in consideration of the covenants and agreements hereafter mentioned to be kept and performed by tenant, has by these presents, demised and leased to tenant the following described land, to-wit:

South half of the Southeast Quarter (S½SE¼)
Section 3, Township 6 North, Range 41 East,
Boise Meridian.

in the county of Madison, State of Idaho, and containing eighty (80)
acres, more or less, together with all buildings and improvements thereon and all rights thereto appertaining except as otherwise herein provided, to have and to hold the same to tenant, from February 6, 1965, to December 31, 1969. And the tenant in consideration of the leasing of the premises as above set forth, covenants and agrees with landlord to pay, as rent for the same, the shares of crops, cash, or quantities of crops as set forth below:

Cash rent on or before the first day of April of each
year commencing April 1, 1965, on the following basis:
\$20.00 per acre for grain crops of any kind.
\$25.00 per acre for potatoes.
No rent on non-tillable land.

After the crop year of 1965 not more than half of the
acreage that is tillable shall be planted to potatoes.

Tenant is specifically authorized to sprinkle irrigate
said premises.

And tenant further agrees with landlord that at the expiration of the term of this lease he will yield up the possession to landlord without further demand or notice, and in as good order and condition as when the same was entered upon by tenant, less by fire or inevitable accident and ordinary wear excepted.

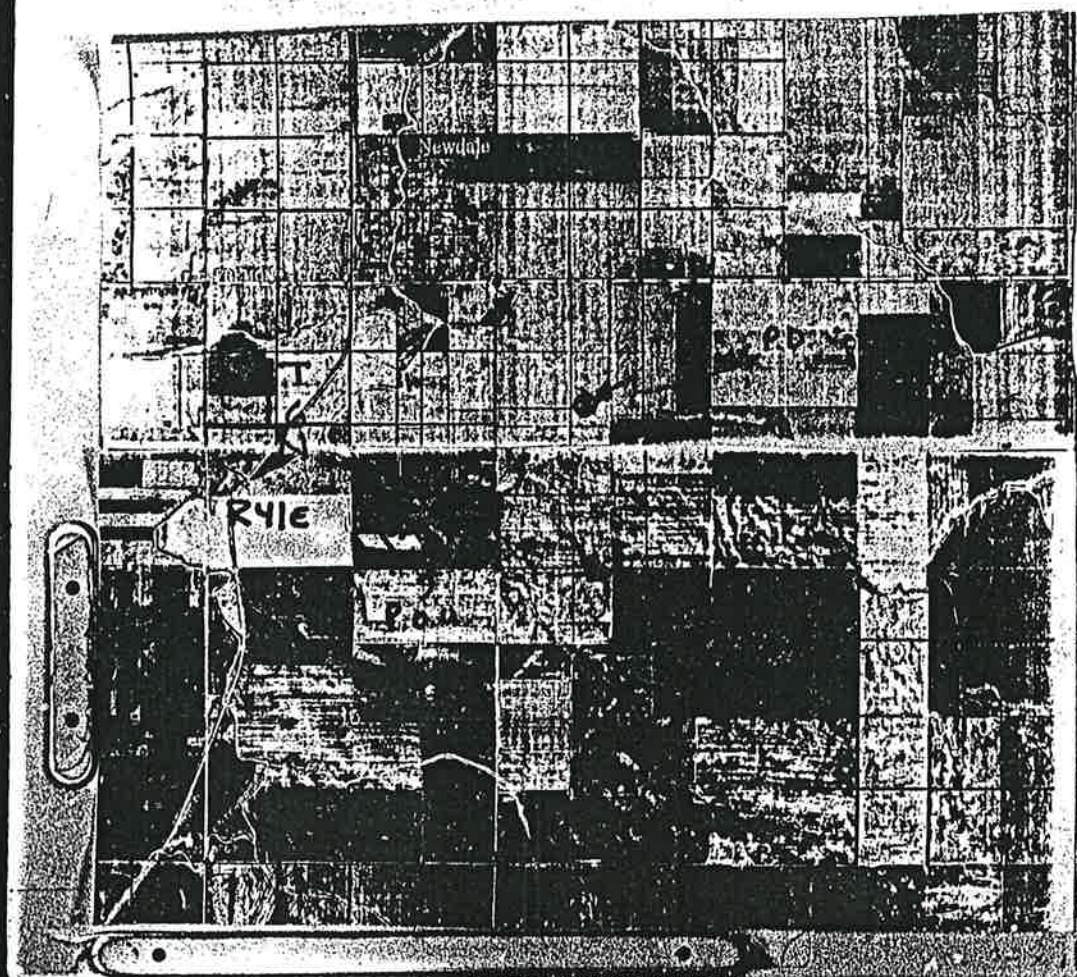
The tenant further agrees not to allow or suffer any waste on said premises, or lease, or under-let, or permit any person or persons to occupy or improve same or make or suffer to be made any alteration therein, except with the approval of the landlord hereto in writing having first been obtained.

And it is further expressly understood and agreed between the parties hereto as follows:

1. The tenant covenants to farm said premises to the satisfaction of landlord, and to raise the greatest amount of grain and other crops thereon the nature of the soil and season will permit, and further to break up and improve as much of the waste land as may be in condition to plow.

2. Tenant shall haul out and distribute upon the poorest soil on said premises all the manure and compost suitable to be used

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32x1

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